

1 DEPARTMENT OF WATER RESOURCES

2 BEFORE THE DIRECTOR

3 IN THE MATTER OF THE APPLICATION OF) AWS No. 2008-005
4 THE CITY OF BENSON FOR A)
5 DESIGNATION AS HAVING AN) DECISION AND ORDER
ADEQUATE WATER SUPPLY)
6 _____) No. 41-401803.0001

7 **I. INTRODUCTION**

8 On April 19, 2007, the Department of Water Resources (Department) received an application
9 from the City of Benson (Benson) requesting that the Department modify Benson's designation of
10 adequate water supply pursuant to A.R.S. § 45-108 and A.A.C. R12-15-701 *et seq.*

11 After receiving Benson's application to modify its designation of adequate water supply, the
12 Department reviewed relevant information regarding the designation request, including: 1) the hydrologic
13 study submitted with the application and other information on file with the Department for the proposed
14 source of groundwater supply; and 2) information regarding Benson's financial capability to construct the
15 necessary delivery system, treatment works and storage facilities. Based on that information, the
16 Department makes the following Findings of Fact, Conclusions of Law, Order of Designation and
17 Conditions of Designation:

18 **II. FINDINGS OF FACT**

19 **A. General**

- 20 1. Benson is a municipal provider and has the right to withdraw groundwater for service to its customers
21 pursuant to A.R.S. § 45-453.
22 2. Benson currently serves water through its distribution system to its customers.

23 **B. Water Demands**

- 24 3. Benson's current demand as of calendar year 2007 is 843 acre-feet per year (current demand).
25

- 1 4. Benson's committed demand as of calendar year 2007 is 260 acre-feet per year (committed
2 demand).
- 3 5. Benson's projected demand in 2021 is 12,371 acre-feet (2021 projected demand). The 2021
4 projected demand does not include the current demand or the committed demand, but does include
5 the annual demand at build-out of plats reasonably projected to be approved and customers
6 reasonably projected to be added through calendar year 2021.
- 7 6. Benson's annual estimated water demand in 2021, which is the sum of its current demand, committed
8 demand, and 2021 projected demand, is 13,474 acre-feet per year (2021 annual estimated water
9 demand).

10 **C. Groundwater: Physical, Continuous and Legal Availability**

- 11 7. Benson has the right to withdraw and deliver groundwater to its customers pursuant to A.R.S. § 45-
12 453.
- 13 8. Historic hydrologic information demonstrates that depth-to-static water levels within the Benson
14 service area currently average 665 feet below land surface.
- 15 9. Benson has demonstrated that after withdrawing 13,474 acre-feet per year of groundwater for 100
16 years, the depth-to-static water level within Benson's service area is not expected to exceed 1,200
17 feet below land surface.
- 18 10. Benson has demonstrated that it has, or will construct, wells of sufficient capacity to satisfy its 2021
19 annual estimated water demand of 13,474 acre-feet per year for at least 100 years.

20 **D. Water Quality**

- 21 11. Benson will be regulated by the Arizona Department of Environmental Quality as a public water
22 system pursuant to A.R.S. §§ 49-351, et seq.

23 **E. Financial Capability**

- 24 12. Benson has constructed adequate delivery, storage, and treatment works to satisfy its 2017 annual
25 estimated water demand pursuant to A.A.C. R12-15-720(C)(1). In addition, Benson has entered into
an "Annexation Development Agreement" (Agreement) with Sands Properties, LLC, an Arizona

1 limited liability company (Developer), dated September 20, 1999. The Agreement states that the
2 Developer "will build and pay for the cost of the water mains, wells, pumping and storage facilities and
3 all other infrastructure needed to provide water service" to the annexed area consisting of the Sands
4 Ranch development.

5 **III. CONCLUSIONS OF LAW**

6 Having reviewed the Findings of Fact, the Department makes the following Conclusions of Law:

- 7 1. Benson has demonstrated that sufficient groundwater will be physically available, continuously
8 available and legally available for at least 100 years, to meet its 2021 annual estimated water
9 demand of 13,474 acre-feet per year. See A.A.C. R12-15-716 through R12-15-718.
- 10 2. For purposes of A.A.C. R 12-15-716 (B)(3)(c)(ii), Benson's annual estimated demand that will be met
11 with groundwater is 13,474 acre-feet per year.
- 12 3. The water supply served by Benson will be of adequate quality pursuant to A.A.C. R12-15-719.
- 13 4. Benson has satisfied the financial capability criteria prescribed in A.A.C. R12-15-720.
- 14 5. Benson has satisfied all the requirements for a designation of an adequate water supply.

15 **IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION**

16 Having reviewed the Findings of Fact and Conclusions of Law, the Director hereby issues this Decision
17 and Order designating Benson as having an adequate water supply, subject to the following conditions:

- 18 1. The Director reserves the right under A.A.C. R12-15-715(C) to periodically review and modify the
19 designation for good cause as conditions warrant.
- 20 2. Pursuant to A.A.C. R12-15-715, the Director may revoke this designation at any time if the findings of
21 fact or the conclusions of law upon which the designation is based change or are invalid, or if an
22 adequate water supply no longer exists.
- 23 3. The Director's determination that an adequate water supply exists for Benson is based on its review
24 of the water supply pledged by Benson.
- 25 4. Benson shall submit an application to modify this decision and order designating Benson as having

1 an adequate water supply when the sum of Benson's current demand, committed demand and two-
2 year projected demand exceeds 13,474 acre-feet, or by December 31, 2019, whichever is earlier.

3 5. Pursuant to A.A.C. R12-15-719, Benson shall satisfy any state water quality requirements established
4 for its proposed use after the date of this designation.

5 6. Benson shall annually provide to the Department the following information in the manner prescribed
6 in A.A.C. R12-15-715:

7 a. The projected demand at build-out for customers with which Benson has entered into a notice of
8 intent to serve agreement in the previous calendar year.

9 b. An estimate of the demand of platted, undeveloped lots located in Benson's service area.

10 c. A report regarding Benson's compliance with water quality requirements.

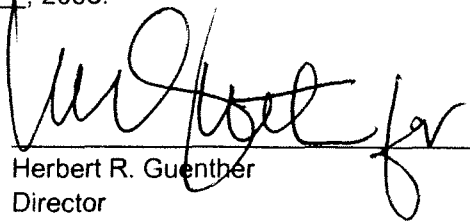
11 d. The depth-to-static water level of all wells from which Benson withdrew water during the previous
12 calendar year.

13 e. The total quantity of water from any source, withdrawn, diverted, or received by Benson for its
14 customers' residential and non-residential use during the previous calendar year.

15 f. Any other information requested by the Director to determine whether Benson is continuing to
16 meet all the requirements necessary to maintain this designation of adequate water supply.

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18 **IT IS HEREBY ORDERED THAT THE CITY OF BENSON BE DESIGNATED AS HAVING AN**
19 **ADEQUATE WATER SUPPLY UNTIL DECEMBER 31, 2021.**

20 DATED this 14th day of July, 2008.

21
22 
23 Herbert R. Guenther
24 Director
25 Arizona Department of Water Resources

1 A copy of the foregoing
2 **Decision and Order** mailed
3 by certified mail this
4 16th day of July, 2008,
5 to the following:

Certified Mail No. 7006 2760 0002 48851435

6 Sent by: R. Obenshain
7 Rick Obenshain

8 Brad Hamilton
9 City of Benson
10 120 W. 6th Street
11 Benson, AZ 85602

12 First class mail copies to:

13 Mr. Roy Tanney
14 Director of Real Estate Subdivisions
15 Arizona Department of Real Estate
16 2910 N. 44th Street
17 Phoenix, Arizona 85018

18 Greg Hess
19 Clear Creek Associates
20 221 N. Court Ave., Suite 101
21 Tucson, Arizona 85701

22 Jami Schulman
23 Sands Properties, LLC
24 7001 N. Scottsdale Rd.
25 Suite 1015
Scottsdale, AZ 85253